

**United States District Court for the Southern District of Iowa**

Presiding: Honorable Rebecca Goodgame Ebinger

Case No. 4:15-cv-00050

: Clerk's Court Minutes – Jury Trial Day 2

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Plaintiff(s)

: Defendant(s)

DUSTIN BURNIKEL

: MICHAEL FONG; GREG WESSELS; CITY  
: OF DES MOINES

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Plaintiff(s) Counsel: Justin K. Swaim; James Wyrsch; Javad Khazaeli; Kiara Nayo Drake

Defendant(s) Counsel: John O. Haraldson

Court Reporter: Terri Martin

: Interpreter: N/A

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Motion(s) for Ruling:

Ruling / Ruling Reserved

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Proceedings:

At 8:37 a.m., parties appear and Court resumes. Court discusses exhibit issues with parties. Court addresses potential conflict issue with juror no. 6 outside of presence of rest of jury. Neither party objects to juror remaining on jury. At 9:11 a.m., jury enters. At 9:11 a.m. Plaintiff's counsel calls Plaintiff Dustin Burnikel to testify. At 10:19 a.m., Defense begins cross examination of Dustin Burnikel. At 10:25 a.m., jury recesses. Court resumes outside presence of jury. At 10:28 a.m., Court recesses. At 10:41 a.m., Court resumes outside of the presence of the jury. At 10:43 a.m., jury returns. Defense continues cross-examination of Dustin Burnikel. At 11:46 a.m., Court holds bench conference. At 11:49 a.m., cross-examination of Dustin Burnikel continues. At 11:57 a.m., Court recesses for lunch. At 1:08 p.m., Court resumes outside of presence of jury. At 1:12 p.m., jury returns and Defense continues cross-examination of Dustin Burnikel. At 1:16 p.m., Plaintiff conducts redirect examination of Dustin Burnikel. At 1:16 p.m., Plaintiff conducts re-direct examination of Dustin Burnikel. At 1:33 p.m., Plaintiff calls witness Jeff Wilson to testify and conducts direct examination. At 2:01 p.m., Defense cross examines Jeff Wilson. At 2:06 p.m., Plaintiff conducts redirect examination of Jeff Wilson. At 2:09 p.m., Plaintiff calls witness Treyton Burnikel and conduct direct examination. At 2:21 p.m., Plaintiff calls witness Don Burnikel and conducts direct examination. At 2:40 p.m., Defense cross examines Don Burnikel. At 2:41 p.m., jury is excused for recess. Court resumes outside of the presence of the jury. At 2:47 p.m., Court recesses. At 2:55 p.m., Court resumes. Plaintiff calls witness Eric Shelton through video testimony. At 3:19 p.m., Defense cross examines witness Eric Shelton via video deposition. At 3:37 p.m., Plaintiff conduct redirect examination of Eric Shelton. At 3:40 p.m., Defense conducts re-cross examination of Eric Shelton.

At 3:41 p.m., Court excuses jury for day. Court resumes outside presence of jury. At 3:53 p.m., Court recesses for day.

Time in recess: 1 hr 32 min. Time in Court: 5 hr 45 min.

Time Start: 8:36 am

Time End: 3:53 pm

Date: Nov. 13, 2018

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/s/ Helen Marie S. Berg

Deputy Clerk